

NOTICE OF PROPOSED REGULATIONS
California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the Department) proposes to amend Sections 3044, 3190, and 3315, of the California Code of Regulations (CCR), Title 15, Division 3, concerning Inmate Personal Property.

AUTHORITY

Penal Code Sections 5058 and 5058.3

REFERENCE

Penal Code Section 5054

PUBLIC HEARING:

Date and Time: Friday, March 21, 2014 - 10:00 a.m. to 11:00 a.m.

Place: Department of Corrections and Rehabilitation
Kern/Colorado Conference Room
1515 S Street – North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

WRITTEN COMMENT PERIOD:

The public comment period will close **March 21, 2014 at 5:00 p.m.** Any person may submit public comments in writing regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

S. Alarid
Regulation and Policy Management Branch
Telephone (916) 445-2269

Questions regarding the substance of the proposed regulatory action should be directed to:

Joe Stein, Chief
Division of Adult Institutions, Standardized Procedures Unit
Telephone (916) 323-2863

INFORMATIVE DIGEST

Penal Code Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

Penal Code Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

Penal Code Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

Penal Code Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

Penal Code Section 5058.3 provides in part that no showing of emergency is necessary in order to adopt, amend, or repeal an emergency regulation if the director instead certifies, in a written statement filed with the Office of Administrative Law, that operational needs of the Department require adoption, amendment, or repeal of the regulation on an emergency basis.

I. Policy Statement Overview

In February 2008, Title 15 section 3190 established the Authorized Personal Property Schedule (APPS) consisting of five separate property schedules, one for each mission-based region of the Division of Adult Institutions. These five schedules are listed in sections 3190(b)(1)-(5), along with a list of each facility/institutions that fall under them.

This proposed action reorganizes the APPS away from the mission-based model to one that is based on an inmate's security level and privilege group. The revised APPS clarifies allowable property an inmate of a specific privilege group and security level is afforded regardless of which mission they are under and/or which institution they are housed. The listing of facilities is also removed. This is a more efficient way to organize the APPS because it ensures that similarly situated inmates, those who are the same security level and privilege group but housed at different institutions, do not have a large variance of restrictions on otherwise authorized personal property items.

This proposed regulatory action:

- Amends Section 3044 by replacing the language "Personal Property Packages" with "Inmate Packages" and adds references to specific regulatory sections which explain "special purchases."
- Amends Section 3190 to remove references to specific institutions, and incorporates by reference a revised APPS dated 10/1/13.
- Amends Section 3315 to further clarify disposal or loss of entertainment appliances based on an inmate's conduct.
- Amends the APPS to include a separate property matrix for Privilege Group D inmates that includes Security Housing Units (SHU), Psychiatric Services Units (PSU), and Administrative Segregation Units (ASU).
- Expands the APPS by allowing some items that were previously restricted, and adding new products and technologies that have become available (e.g., clear case technology) thereby allowing the Department to permit a wider array of personal property items while also addressing safety and security needs.

II. The anticipated benefits of the proposed regulation

This proposed regulatory action will provide guidance and clarity to staff and inmates regarding allowable personal property and allow the Department to achieve further standardization of allowable property regardless of which institution an inmate is housed. The authorized volume of property of six cubic feet aids staff in detecting contraband during a cell search, and also helps to reduce the amount of combustible property available if a cell fire occurs. These regulations will prevent discrimination, promote fairness and social equity, promote continued rehabilitation and positive programming, and contribute toward a safe environment for inmates, staff and the public.

III. Comparable Federal Regulation or Statute

None

IV. Evaluation of whether the regulations are inconsistent or incompatible with existing State regulations.

During the process of developing these regulations and amendments, the Department has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

The Authorized Personal Property Schedule (Rev. 10/1/13) is incorporated by reference and will be made available to the public along with the Notice of Proposed Regulations, Text of Proposed Regulations, and Initial Statement of Reasons.

LOCAL MANDATES

The Department has determined that these regulations do not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

FISCAL IMPACT STATEMENT

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| • Cost or savings to any state agency: | none |
| • Cost to any local agency or school district that is required to be reimbursed: | none |
| • Other nondiscretionary cost or savings imposed on local agencies: | none |
| • Cost or savings in federal funding to the State: | none |

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will not:

- Create or eliminate jobs within California.
- Create new businesses or eliminate existing businesses.
- Affect the expansion of businesses currently doing business within California.
- Affect the health of California residents.

- Affect the State's environment.

These regulations will help protect the health and safety of California residents, worker safety, and the State's environment by:

- Limiting the volume of property of six cubic feet aids staff in detecting contraband during a cell search, and helps to reduce the amount of combustible property available if a cell fire occurs.
- Providing property distinctions for specific custody levels and privilege groups to encourage constructive behavior and discourage disruptive behavior.
- Permitting a wider array of personal property items for inmates while addressing the security needs of the institution.

EFFECT ON SMALL BUSINESSES

The Department has determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of State prisons.

ALTERNATIVES DETERMINATION STATEMENT

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action.

Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text, all documents incorporated by reference, and the Initial Statement of Reasons of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based, is available to the public upon request directed to the Department's contact person. The proposed text, Initial Statement of Reasons, documents incorporated by reference, and Notice of Proposed Regulations will also be made available on the Department's website at:

http://www.cdcr.ca.gov/Regulations/Adult_Operations/index.html.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons will be available on the Department's website at http://www.cdcr.ca.gov/Regulations/Adult_Operations/index.html, and may also be obtained from the Department's contact person.